THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.15876 of 2007

(Dated:19.12.2007)

Between:

Sri Kalidindi Venkata Satyanrayana Rama Raju
Agriculturist R/o Balliparru village, Pedana Mandal,
Krishna District.

…Petitioner

A n d

The Manager, Sree Venkatachalaswamy vari Devasthanam
Gudur Mandal, Guduru, Krishna District and others.

…Respondents

ORDER:

Heard Sri R.L.Narasimha Rao, learned counsel representing the writ petitioner, learned Assistant Government Pleader for Endowments and Sri V.T.M.Prasad, learned counsel representing the respondents.

2. The writ petition is filed for a writ of *mandamus* declaring the acts of 1st and 2nd respondents in not allowing the petitioner to participate in the public auction as arbitrary, illegal, capricious and violative of all canons of law and justice and consequently to direct the respondents to re-conduct the public auction allowing the petitioner to participate in the said public auction and pass such other suitable orders.

3. It is averred in para 2 of the affidavit filed in support of the petition that the petitioner is an agriculturist doing cultivation at Baliparru village, Pedana Mandal, Krishna District. The first respondent is the Manager of Sri Venkata Chala Swamy vari Temple ("temple", in short) situated at Guduru, Guduru Mandal and respondents 2 to 6 are the authorities having administrative control over the first respondent. While so, on 7.6.2007, respondent No.1 had issued a pamphlet in the name and style "**BAHIRANGA KOWLUVELAM PATA PRAKATANA**"(**PUBLIC AUCTION OF LEASE HOLD RIGHTS**) in respect of Ac.3.60 cents of land pertaining to RS No.181 of Balliparru village, Pedana Mandal, Krishna District belonging to the temple. It is further mentioned in the said pamphlet that the lease period is for three

years commencing from 2007-2010 and the auction to be conducted at 3 P.M on 19.7.2007 under the supervision of respondent No.2-Endowments Inspector, Machilipatnam in the presence of the temple Manager and the villagers. Further, in the said pamphlet, the first respondent also invited the public, who intend to participate in the auction, to pay Rs.3,500/- as Earnest Money Deposit ("EMD") by producing the requisite documents.

4. It is further stated that the petitioner, who is an agriculturist and resident of Balliparru village having known about the said proposal, with an intention to participate in the said auction reached the premises of Balliparru Gram Panchayat on 19-7-2007 and requested the first respondent to receive the amount of Rs.3,500/- by cash as EMD. Surprisingly, the respondents 1 and 2 have refused to receive the same saying that the petitioner is not eligible to participate in the auction, thereby depriving the fundamental right of the petitioner to participate in the auction. It is also averred that the petitioner, who is not much educated in the endowments rules and procedure, is deprived of his right by illegal rejection of his participation in the auction by respondents 1 and 2. It is also stated that respondent No.1, who is expected to follow the procedure, had not followed the procedure and the petitioner had referred to certain points relating to contravention or violation of the rules in the affidavit filed in support of the petition.

5. It was reported by Sri V.T.M.Prasad, learned counsel representing the respondents that possession had already been delivered to the successful bidder and in fact, the same has been recorded by this court on 13.11.2007.

6. In the counter affidavit filed by the first respondent, it is stated that auction was held at 3 P.M., on 19.6.2007, in the premises of Balliparru Gram Panchayat office for an extent of Ac.3.60 cents in R.S.No.181 of Balliparru village, Pedana Mandal. It is stated that ten persons attended the auction and three participated and in the said auction, the highest bidder is Smt.Kagita Veera Kumari W/o Kagita Sarveswara Rao for three years at 38 bags for sarva (1st crop) and 19 bags for dalva (2nd crop) for each of the three years. It is also stated that possession has been handed over to her and she has paid the deposit amount of Rs.2,000/- and will pay maktha for the 1st crop after the harvest of the 1st crop ,i.e., sarva crop in January and she has already raised the paddy crop in the said extent. Further, it is averred that it is absolutely false on the part of the petitioner to allege that he came prepared to participate in the auction. In fact, the petitioner never came that day to the premises of the Gram Panchayat and if really, the petitioner had come to the auction place, he would have signed on the list of those present and who attended the auction and none could have prevented him from participating in the auction. It is further averred that the pamphlet dated 7.6.2007 (i.e., the auction notice) stating that the auction will be held on 19.6.2007 was published by distributing the copies in the village and also by beat of drum on 9th, 16th and 19th of June, 2007 in the village. The same was also put on the notice boards of the Gram Panchayat office on 9.6.2006 and the premises of the temple on 7.6.2007 and on the notice boards of Inspector-Endowments, Machilipatnam Division and the Tahsildar (M.R.O) office on 8.6.2007 and 9.6.2007 respectively. It is also stated that due publicity was given as per law and the requirement of G.O.379. The auction was held in the office of the Gram Panchayat of

Balliparru as the land is situated in Balliparru revenue limits. It is further stated that it is true that the petitioner got issued a legal notice dated 23.6.2007 making wild and false allegations. It is also stated that the lease has been confirmed in favour of Smt.Kagita Veera Kumari vide proceedings of the Deputy Commissioner in D.D.No.B2/11023/2007, dated 24.7.2007.

7. These are the respective stands taken by the parties.

8. The relevant certificates had been placed before this Court. Further, the auction notice had also been placed before this Court. In the light of the respective stands taken by the parties, especially, the stand taken in the counter affidavit of Respondent No.1, this Court is satisfied that the writ petition is devoid of merits.

9. Accordingly, the writ petition is liable to be dismissed and the same is hereby dismissed. No order as to costs.

P.S.NARAYANA, J

19th December 2007
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THE HON'BLE SRI JUSTICE P.S.NARAYANA

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